IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 3984 of 2007(Y)

PETITIONER:

P.P.MOOSA HAJI,
POONTHOTTAMPOYIL, THACHAMPOYIL P.O.,
KEDAVUR VILLAGE, KOZHIKODE.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS:
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1. STATE REP. BY THE SECRETARY,
DEPARTMENT OF HOME, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DISTRICT SUPERINTENDENT OF POLICE
(KOZHIKODE RURAL), KOZHIKODE.

3. SUB INSPECTOR OF POLICE,
THAMARASSERY POLICE STATION.

4. K.MUHAMMED, S/O.AHAMMED KUTTY.

5. KADEESA, D/O.AHAMMED KUTTY,

6. AYISHA, D/O.AHAMMED KUTTY,

7. RUKIYA, D/O.AHAMMED KUTTY,

8. KUNHAMINA UMMA, W/O.AHAMMED KUTTY,
(RESPONDENTS 4 TO 8 ARE RESIDING KANNIYIRUPPIL
HOUSE, ERPONNA, THACHAMPOYIL P.O.,
THAMARASSERY VIA., KEDAVOOR AMSOM, ERPONNA DESOM,
KOZHIKODE TALUK).

** ADDITIONAL RESPONDENTS:

9.THE DISTRICT COLLECOTR, KOZHIKKODE.

10. THE ENVIRONMENTAL ENGINEER,
KERALA STATE POLLUTION CONTROL BOARD,
DISTRICT OFFICE, KOZHIKKODE.

11. THAMARASSERY GRAMAPANCHAYATH
REPRESENTED BY ITS SECRETARY
THAMARASSERY, KOZHIKODE.

** ADDITIONAL RESPONDENTS R9 TO R11 ARE IMPLEADED WIDE ORDER DATED 12.2.2007 IN I.A.2177/07.

BY ADV. SRI.K.A.SALIL NARAYANAN
SRI.K.M.FIROZ
GOVERNMENT PLEADER SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBTS:

1)	EXT.P1:	COPY OF THE MINING PERMIT ISSUED BY MINING AND GEOLOGY DEPARTMENT DATED 3.1.2007.
2)	EXT.P2:	COPY OF THE RENEWAL ORDER OF THE POLLUTION CONTROL BOARD DATED 13.1.2006.
3)	EXT.P3:	COPY OF THE LICENCE ISSUED BY SECRETARY(SPECIAL GRADE), THAMARASSERY GRAMA PANCHAYATH.
4)	EXT.P4:	COPY OF THE RENEWAL LICENCE ISSUED BY THE JOINT CHIEF CONTROLLER OF EXPLOSIVES, CHENNAI, DATED 29.4.2005.
5)	EXT.P5:	COPY OF THE ORDER OF THE MUNSIFF COURT, DATED 10.4.2006.
6)	EXT.P6:	COPY OF THE WRITTEN COMPLAINT FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 6.2.2007.

RESPONDENT'S EXHIBITS:

1)	EXT.R4(a):	COPY OF THE PLAINT IN O.S.NO.554/2005 DATED 29.10.2005.
2)	EXT.R4(b):	COPY OF THE WRITTEN STATEMENT FILED BY THE WRIT PETITIONER IN O.S.NO.554/2005 DTD 13.3.2006.
3)	EXT.R4(c):	COPY OF THE COMMISSION REPORT SUBMITTED BY THE ADVOCATE COMMISSIONER IN O.S.NO.54/2005 DTD 21.11.05.
4)	EXT.R5(d):	COPY OF THE SECOND COMMISSION REPORT DATED 23.1.2006.
5)	EXT.R4(e):	COPY OF THE RELEVANT PORTION OF PLAINT IN O.S.NO.219/2006 FILED BY THE WRIT PETITIONER.
6)	EXT.R4(f):	COPY OF THE WRITTEN STATEMENT IN O.S.NO.219/2006 FILED BY THE FOURTH RESPONDENT.
7)	EXT.R4(g):	COPY OF THE RELEVANT PORTION OF THE ORDER DISMISSING THE INJUNCTION APPLICATION PASSED BY THE LEARNED MUNSIFF, KOZHIKKODE.
8)	EXT.R4(h):	COPY OF THE PROCEEDINGS OF THE DIRECTOR OF MINING AND GEOLOGY, THIRUVANANTHAPURAM ISSUING QUARRYING LEASE IN RESPECT OF LAND IN RE-SURVEY NO.15/2A1A DATED 26.3.1993.
9)	EXT.R4(i):	COPY OF THE ORDER ISSUED BY THE DIRECTOR OF MINING AND GEOLOGY, EXTENDING THE TIME LIMIT FOR EXECUTION OF LEASE DEED IN RESPECT OF LAND IN RE-SURVEY NO.15/2A1A FOR A FURTHER PERIOD UP TO 30.9.1993.

10)	EXT.R4(j):	COPY OF THE LEASE DEED EXECUTED BY THE WRIT PETITIONER AND GEOLOGIST, MINING AND GEOLOGY DEPARTMENT, KOZHIKODE IN RESPECT OF LAND IN RE SURVEY NO.15/2A1A.
11)	EXT.R4(k):	COPY OF THE DIRECTION TO COMPLY WITH CONDITIONS ISSUED BY THE ADDITIONAL 10TH RESPONDENT, ENVIRONEMNTAL ENGINEER, POLLUTION CONTROL BOARD, DATED 7.12.06.
12)	EXT.R4(l):	COPY OF THE LETTER ISSUED BY THE ADDITIONAL 10TH RESPONDENT TO 4TH RESPONDENT'S ADVOCATE.
13)	EXT.R10(1):	COPY OF THE DIRECTION DATED 7.12.2006.

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P.A. TO JUDGE.

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C).NO.3984 OF 2007

Dated this the 26th day of February,2007.

JUDGMENT

Koshy, J.

This is a petition for police protection for running the crusher unit. By Ext.R4(l) Environmental Engineer stated that they directed the petitioner not to restart the unit without complying with consent conditions and prior intimation. In the above circumstances without the consent of the statutory authority this court cannot give police protection to restart the functioning.

Hence petition for police protection is dismissed. Petitioner are free to approach the statutory authorities for getting clearance and consent.

J.B.KOSHY, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

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